

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DE'ANGELO CROSS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 15-CV-1338-JPS
Criminal Case No. 00-CR-36-JPS

ORDER

On November 9, 2015, Petitioner De'Angelo Cross ("Cross") filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence, arguing that the career-offender provision of the mandatory sentencing Guidelines under which he was sentenced is unconstitutionally vague. (Docket #1). The Court denied the motion and entered judgment in favor of the United States on May 30, 2017. (Docket #17, #18). The Court found that *Beckles v. United States*, 137 S. Ct. 886 (2017), foreclosed Cross' vagueness challenge, and in the alternative, Cross had waived his ability to collaterally attack his sentence.

Cross appealed. The Court of Appeals reversed both of this Court's findings and remanded the case with instructions to grant Cross' motion and resentence him without the career-offender classification. (Docket #29). The Court fulfills that obligation through the entry of this Order. The Court will grant Cross' motion for Section 2255 relief and direct that the parties jointly contact the Court's chambers to schedule a resentencing hearing in Cross' criminal case. The Probation Office is further directed to prepare a new presentence investigation report consistent with the

Seventh Circuit's guidance in this action. To afford the Probation Office sufficient time to prepare the new report, the parties should confer with the Court's chambers to select a hearing date in November.

Accordingly,

IT IS ORDERED that, pursuant to the mandate of the Court of Appeals for the Seventh Circuit issued on September 10, 2018, Petitioner's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Docket #1) be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that the judgment against Petitioner in this case (Docket #18) be and the same is hereby **VACATED**, and the Clerk of the Court is directed to enter judgment in this case in Petitioner's favor;

IT IS FURTHER ORDERED that the parties jointly contact the Court's chambers as soon as practicable to schedule a resentencing hearing for Petitioner in Case No. 00-CR-36-JPS;

IT IS FURTHER ORDERED that the Probation Office prepare a new presentence investigation report for Petitioner's resentencing which is consistent with the instructions of the Court of Appeals in this matter; and

IT IS FURTHER ORDERED that this case be and the same is hereby **DISMISSED**.

Dated at Milwaukee, Wisconsin, this 19th day of September, 2018.

BY THE COURT:



J.P. Stadtmauer
U.S. District Judge